

AMENDED IN SENATE JUNE 11, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 531**

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**Introduced by Assembly Member Saldana**

February 25, 2009

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~~An act to amend Section 6254.16 of the Government Code, to amend Section 25402.10 of the Public Resources Code, and to amend Section 394.4 of the Public Utilities Code, relating to energy.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 531, as amended, Saldana. Energy consumption data: disclosure.

~~(1) Existing law requires electric and gas utilities to maintain records of the energy consumption data of all nonresidential buildings to which they provide service. Existing law requires an electric or gas utility, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, to upload all of the energy consumption data for the account specified for a building to the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager in a manner that preserves the confidentiality of the customer.~~

~~Existing law, including the California Public Records Act, prohibits the disclosure of a utility customer's personal information, except under specified circumstances.~~

~~This bill would exempt an electric or gas utility from certain disclosure prohibitions when the electric or gas utility, upon written authorization, is uploading the energy consumption data for the account specified for a building to the United States Environmental Protection Agency's~~

~~ENERGY STAR Portfolio Manager. The bill would provide this uploading satisfies specified confidentiality requirements:~~

~~(2) Existing~~

~~Existing law requires an owner or operator, on and after January 1, 2010, to disclose the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager benchmarking data and rating to a prospective buyer, lessee of the entire building, or lender that would finance the entire building.~~

The bill instead would require the owner or operator to disclose the benchmarking data and rating to a prospective buyer, lessee of the entire building, or lender that would finance the entire building based on a schedule of compliance established by the State Energy Resources Conservation and Development Commission.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 6254.16 of the Government Code is~~  
2     ~~amended to read:~~  
3     ~~6254.16. Except as provided in subdivision (b) of Section~~  
4     ~~25402.10 of the Public Resources Code, nothing in this chapter~~  
5     ~~shall be construed to require the disclosure of the name, credit~~  
6     ~~history, utility usage data, home address, or telephone number of~~  
7     ~~utility customers of local agencies, except that disclosure of name,~~  
8     ~~utility usage data, and the home address of utility customers of~~  
9     ~~local agencies shall be made available upon request as follows:~~  
10    ~~(a) To an agent or authorized family member of the person to~~  
11    ~~whom the information pertains.~~  
12    ~~(b) To an officer or employee of another governmental agency~~  
13    ~~when necessary for the performance of its official duties.~~  
14    ~~(c) Upon court order or the request of a law enforcement agency~~  
15    ~~relative to an ongoing investigation.~~  
16    ~~(d) Upon determination by the local agency that the utility~~  
17    ~~customer who is the subject of the request has used utility services~~  
18    ~~in a manner inconsistent with applicable local utility usage policies.~~  
19    ~~(e) Upon determination by the local agency that the utility~~  
20    ~~customer who is the subject of the request is an elected or appointed~~  
21    ~~official with authority to determine the utility usage policies of the~~

1 ~~local agency, provided that the home address of an appointed~~  
2 ~~official shall not be disclosed without his or her consent.~~

3 ~~(f) Upon determination by the local agency that the public~~  
4 ~~interest in disclosure of the information clearly outweighs the~~  
5 ~~public interest in nondisclosure.~~

6 ~~SEC. 2.~~

7 *SECTION 1.* Section 25402.10 of the Public Resources Code  
8 is amended to read:

9 25402.10. (a) On and after January 1, 2009, electric and gas  
10 utilities shall maintain records of the energy consumption data of  
11 all nonresidential buildings to which they provide service. This  
12 data shall be maintained, in a format compatible for uploading to  
13 the United States Environmental Protection Agency's ENERGY  
14 STAR Portfolio Manager, for at least the most recent 12 months.

15 (b) ~~(1)~~ On and after January 1, 2009, upon the written  
16 authorization *or secure electronic authorization* of a nonresidential  
17 building owner or operator, ~~and notwithstanding Section 6254.16~~  
18 ~~of the Government Code~~, an electric or gas utility shall upload all  
19 of the energy consumption data for the account specified for a  
20 building to the United States Environmental Protection Agency's  
21 ENERGY STAR Portfolio Manager in a manner that preserves  
22 the confidentiality of the customer.

23 ~~(2) Paragraph (1) satisfies the confidentiality requirements of~~  
24 ~~Section 394.4 of the Public Utilities Code.~~

25 (c) In carrying out this section, an electric or gas utility may use  
26 any method for providing the specified data in order to maximize  
27 efficiency and minimize overall program cost, and is encouraged  
28 to work with the United States Environmental Protection Agency  
29 and customers in developing reasonable reporting options.

30 (d) (1) Based on a schedule developed by the commission  
31 pursuant to paragraph (2) an owner or operator of a nonresidential  
32 building shall disclose the United States Environmental Protection  
33 Agency's ENERGY STAR Portfolio Manager benchmarking data  
34 and ratings for the most recent 12-month period to a prospective  
35 buyer, lessee of the entire building, or lender that would finance  
36 the entire building. If the data is delivered to a prospective buyer,  
37 lessee, or lender, a property owner, operator, or his or her agent is  
38 not required to provide additional information, and the information  
39 shall be deemed to be adequate to inform the prospective buyer,  
40 lessee, or lender regarding the United States Environmental

1 Protection Agency's ENERGY STAR Portfolio Manager  
2 benchmarking data and ratings for the most recent 12-month period  
3 for the building that is being sold, leased, financed, or refinanced.

4 (2) The commission shall establish a schedule by which an  
5 owner or operator is required to meet the requirements of this  
6 subdivision.

7 (e) Notwithstanding subdivision (d), this section does not  
8 increase or decrease the duties, if any, of a property owner,  
9 operator, or his or her broker or agent under this chapter or alter  
10 the duty of a seller, agent, or broker to disclose the existence of a  
11 material fact affecting the real property.

12 ~~SEC. 3.—Section 394.4 of the Public Utilities Code is amended~~  
13 ~~to read:~~

14 ~~394.4.—Rules that implement the following minimum standards~~  
15 ~~shall be adopted by the commission for electric service providers~~  
16 ~~offering electrical services to residential and small commercial~~  
17 ~~customers and the governing body of a public agency offering~~  
18 ~~electrical services to residential and small commercial customers~~  
19 ~~within its jurisdiction:~~

20 ~~(a) Confidentiality: Except as provided in subdivision (b) of~~  
21 ~~Section 25402.10 of the Public Resources Code, customer~~  
22 ~~information shall be confidential unless the customer consents in~~  
23 ~~writing. This shall encompass confidentiality of customer specific~~  
24 ~~billing, credit, or usage information. This requirement shall not~~  
25 ~~extend to disclosure of generic information regarding the usage,~~  
26 ~~load shape, or other general characteristics of a group or rate~~  
27 ~~classification, unless the release of that information would reveal~~  
28 ~~customer specific information because of the size of the group,~~  
29 ~~rate classification, or nature of the information.~~

30 ~~(b) Physical disconnects and reconnects: Only an electrical~~  
31 ~~corporation, or a publicly owned electric utility, that provides~~  
32 ~~physical delivery service to the affected customer shall have the~~  
33 ~~authority to physically disconnect or reconnect a customer from~~  
34 ~~the transmission or distribution grid. Physical disconnection by~~  
35 ~~electrical corporations subject to the commission's jurisdiction~~  
36 ~~shall occur only in accordance with protocols established by the~~  
37 ~~commission. Physical disconnection by publicly owned electric~~  
38 ~~utilities shall occur only in accordance with protocols established~~  
39 ~~by the governing board of the local publicly owned electric utility.~~

1 ~~(e) Change in providers: Upon adequate notice supplied by a~~  
2 ~~electric service provider to the electric corporation or local publicly~~  
3 ~~owned electric utility providing physical delivery service,~~  
4 ~~customers who are eligible for direct access may change their~~  
5 ~~energy supplier. Energy suppliers may charge for this change,~~  
6 ~~provided that any fee or penalty charged by the supplier associated~~  
7 ~~with early termination of service, shall be disclosed in that contract~~  
8 ~~or applicable tariff.~~

9 ~~(d) Written notices: Notices describing the terms and conditions~~  
10 ~~of service as described in Section 394.5, service agreements,~~  
11 ~~notices of late payment, notices of discontinuance of service, and~~  
12 ~~disconnection notices addressed to residential and small~~  
13 ~~commercial customers shall be easily understandable, and shall~~  
14 ~~be provided in the language in which the electric service provider~~  
15 ~~offered the services.~~

16 ~~(e) Billing: All bills shall have a standard bill format, as~~  
17 ~~determined by the commission or the governing body, and shall~~  
18 ~~contain sufficient detail for the customer to recalculate the bill for~~  
19 ~~accuracy. Any late fees shall be separately stated. Each electric~~  
20 ~~service provider shall provide on all customer bills a phone number~~  
21 ~~by which customers may contact the electric service provider to~~  
22 ~~report and resolve billing inquiries and complaints. An electric~~  
23 ~~service provider contacted by a customer regarding a billing dispute~~  
24 ~~shall advise the customer at the time of the initial contact that the~~  
25 ~~customer may file a complaint with the commission if its dispute~~  
26 ~~is not satisfactorily resolved by the electric service provider.~~

27 ~~(f) Meter integrity: An electric customer shall have a reasonable~~  
28 ~~opportunity to have its meter tested to ensure the reasonable~~  
29 ~~accuracy of the meter. The commission or governing body shall~~  
30 ~~determine who is responsible for the cost of that testing.~~

31 ~~(g) Customer deposits: Electric service providers may require~~  
32 ~~customer deposits before commencing service, but in no event~~  
33 ~~shall the deposit be more than the estimated bill for the customer~~  
34 ~~for a three-month period.~~

35 ~~(h) Additional protections: The commission or the governing~~  
36 ~~body may adopt additional residential and small commercial~~  
37 ~~consumer protection standards that are in the public interest.~~